

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.19889 of 2009

Date of Decision:21.11.2016

Punjab Gramin Bank

... Petitioner

Vs.

Union of India and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. N.C. Sahni, Advocate for the petitioner.

Mr. Arun Gosain, Advocate for respondents No.1 and 3.

Mr. Dinesh Nagar, Advocate for respondent No.2.

P.B. BAJANTHRI J.

In the instant writ petition, the petitioner-Punjab Gramin Bank has questioned the validity of the award of the Industrial Tribunal-cum-Labour Court dated 29.4.2009.

The second respondent-Gurdaspur Amritsar Kshtriya Gramin Bank Employees Union filed an application that the staff are entitled to conveyance allowance for purchase of New scooter, Motorcycle/moped free of interest. The reference was considered by the Labour Court. The reference reads as under:

“Whether the action of the management of Gurdaspur-Amritsar Kshetriya Bank, Gurdaspur in not granting advance to purchase conveyance in accordance with the old scheme as prevailing in sponsored bank in respect of those workmen who joined before 9.9.1989 is legal and justified? If not, to what relief the concerned workmen are entitled and from what date?”

The Labour Court while disposing of the reference held as under:

“On the basis of the above discussion, I am of the view that the management of Punjab National Bank has illegally stopped the benefits of old scheme to those workmen who joined the services before 9.9.89 prevailing in the sponsored bank. Accordingly, the management of the bank is directed to provide the benefit of old scheme to the class of the employees who joined the services before 9.9.89. Accordingly, the reference is disposed off. Central Govt. be informed. File be consigned.”

During the pendency of the litigation, respondent No.2-Gurdaspur Amritsar Kshtriya Gramin Bank Employees Union was merged with the Punjab Gramin Bank in the year 2005. Thus, the Punjab Gramin Bank feeling aggrieved by the award passed by the Industrial Tribunal dated 29.4.2009 presented this petition. The Punjab National Bank had a scheme relating to advances to members of staff for purchase of new scooter, motorcycle/moped, Bicycle free of interest. The grievance of the respondent No.2-the Gurdaspur Amritsar Kshtriya Gramin Bank Employees Union is that they are entitled for interest free loan as per the norms/scheme of the Punjab National Bank notified on 19.8.1989.

Learned counsel for the petitioner submitted that deciding the reference by the Industrial Tribunal itself is without jurisdiction in view of Section 2K of the Industrial Disputes Act, 1947 (for short “ID Act”). It was further contended by the learned counsel for the petitioner that no evidence has been adduced before the Labour Court by the respondent union. In support of the contention that Labour Court has no jurisdiction, learned counsel for the petitioner relied on decisions namely (i) **Birla Corporation**

Ltd. (Unit: Soorah Jute Mill) Sramik Union & etc. v. Birla Corporation Ltd. Ors. 2009 Lab.I.C. 1970 (ii) **Workmen of Indian Bank v. Management of Indian Bank** 1985 I.L.L.J. 6.

Learned counsel for respondent No.2 submitted that the petitioner has not challenged the reference and what has been challenged is only award of the Labour Court in the absence of challenge to reference passed in the year 1986. In the present writ petition, the petitioner is not permitted to challenge both reference as well as award of the Industrial Tribunal. It was further submitted that rights of the employees union accrued as per the old scheme. By introducing new scheme on 16.12.1991, the same cannot be taken away. It was further submitted by the learned counsel for respondent No.2 that Labour Court after examining the old scheme and new scheme read with the fact that the respondent workman were appointed prior to 16.12.1991, therefore, the scheme existing prior to 16.12.1991 is applicable. Hence, there is no infirmity in the award passed by the Labour Court.

Heard learned counsel for the parties.

Question for consideration in the present petition is whether the second respondent the then Gurdaspur Amritsar Kshtriya Gramin Bank Employees Union are entitled to any conveyance allowance free of interest under the old scheme dated 19.8.1989 of the Punjab National Bank or not?

Gurdaspur Amritsar Kshtriya Gramin Bank Employees Union were merged with the Punjab Gramin Bank in the year 2005. The reference is relating to entitlement of conveyance allowance free of interest. The same is not service condition of an employee so as to raise a dispute. It is beneficial clause under particular scheme. Therefore, question of industrial

dispute in respect of conveyance allowance free of interest is not an issue. As held by the Court of Judicature Madras and Calcutta High Court in the aforementioned cases, the grievance of the second respondent would not fall under the purview of Section 2K of the ID Act. Therefore, the reference itself is not in order. Consequently, the award passed by the Labour Court is contrary to Section 2K of the ID Act. Further it is to be noted that one of the contention of the second respondent is that they are entitled to loan in respect of conveyance allowance free of interest under the old scheme and they are not liable under new scheme dated 16.12.1991 issued by the Punjab National Bank. Even assuming that they are entitled under the old scheme, which was issued by the Punjab National Bank on 19.8.1989, still the perusal of the new scheme dated 16.12.1991 itself has been issued in supersession of all earlier schemes. Therefore, as long as the new scheme dated 16.12.1991 is not challenged and without challenging to new scheme dated 16.12.1991 insofar as imposing rate of interest @ 7.5% (simple) per annum, the second respondent is not entitled to any relief sought and second respondent has not made out a case.

Accordingly, the award of the Industrial Tribunal-cum-Labour Court dated 29.4.2009 is set aside.

The writ petition stands allowed.

21.11.2016
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**